

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DION MATHEWS and MUSTAFA-EL K.A. AJALA
formerly known as Dennis E. Jones-El,

Plaintiffs,

v.

RICK RAEMISCH, PETER HUIBREGTSE,
GARY BOUGHTON, JAMES GREER,
DAVID BURNETT, CYNTHIA THORPE,
LT. HANFELD, MARY MILLER,
KAMMY JONES and WISCONSIN DEPARTMENT OF CORRECTIONS,

Defendants.

ORDER

10-cv-742-bbc

Judgment was entered in this case on February 27, 2012 granting defendants' motion for summary judgment and closing this case. In an order entered on May 30, 2012, I denied plaintiffs' motion to alter or amend the judgment. Now plaintiffs have filed a notice of appeal. Because neither plaintiff has paid the fee for filing an appeal, I construe the notice to include a request for each plaintiff to proceed in forma pauperis on appeal.

As plaintiffs should be aware, because they are prisoners, they must each pay the full cost of filing a notice of appeal. Boriboune v. Berge, 391 F.3d 852, 855-56 (7th Cir. 2004) They owe the money whether the appeal is meritorious, procedurally defective or lacking in legal merit. If they were to qualify for indigent status, they would be allowed to pay their fees in monthly installments, beginning with an initial partial payment. However, if the

appeal is certified as not having been taken in good faith, they may not proceed in forma pauperis and instead, must each pay the full amount of his respective fee immediately.

Plaintiffs' request is governed by the 1996 Prison Litigation Reform Act. This means that this court must determine first whether either plaintiff's request must be denied either because he has three strikes against him under 28 U.S.C. § 1915(g) or because the appeal is not taken in good faith. Neither plaintiff has three strikes against him and I do not intend to certify that this appeal is not taken in good faith.

However, I cannot tell whether either plaintiff qualifies for indigent status on appeal because neither has submitted a trust fund account statement for the six-month period immediately preceding the filing of the notice of appeal. Therefore, I will stay a decision on plaintiffs' request for leave to proceed in forma pauperis pending submission of the necessary trust fund account statements.

ORDER

IT IS ORDERED that a decision whether plaintiffs Dion Mathews and Mustafa-El K.A. Ajala may proceed in forma pauperis on appeal is STAYED. Each plaintiff may have until July 31, 2012 in which to submit a trust fund account statement for the six-month period beginning approximately December 28, 2011 and ending approximately June 28, 2012. If, by July 31, 2012, a plaintiff fails to submit the necessary trust fund account statement, I will deny his request for leave to proceed in forma pauperis on appeal for his

failure to show that he is entitled to indigent status on appeal.

Entered this 6th day of July, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge